

CONSERVATION

CONSERVATION
HANDBOOK
FOR
DUXBURY, MASS.



Duxbury Conservation Commission

QUESTIONS FREQUENTLY ASKED IN DUXBURY ABOUT CONSERVATION

1. What steps must I go through to obtain permission to alter my beach or coastal marsh?

First you must determine if your property is subject to a state protective or regulatory act, or a town by-law. A local official such as a member of the Board of Selectmen, see 1.1 this pamphlet, or Conservation Commission, 1.4, may be able to help you to make this determination. For an authoritative answer you should write the Department of Natural Resources, 2.1, or the Department of Public Works, 2.2, or both. You should include a plan and a description of the property. Brief descriptions of the Jones Act and Coastal Wetlands Protective Acts are found under 2.20 and 2.21. If it is determined that your property is subject to one or both of these acts, you may wish to read the texts. Write to the Department of Natural Resources and ask for copies of the Jones Act and Coastal Wetlands Protective Acts. Since the town by-laws are subject to change, the booklet containing all these laws can be obtained in loose leaf at the Town Clerk's office. In the matter of wetlands, the most significant sentences in the Duxbury Protective By-Law, adopted in 1960, are quoted under 1.20.

You may be told that you can alter your beach or coastal marsh if you follow certain regulations. In this case, you should check the contractor and make certain that he meets the conditions or the work will be stopped.

2. What steps must I take to obtain permission to alter my stream, pond or inland marsh?

Same as under Question 1, above. Brief descriptions of the Hatch and Inland Wetland Acts are found under 2.22 and 2.23. Full texts are available from the Department of Natural Resources. You should check with the Selectmen about local regulations.

Again, if you are asked to meet certain conditions, make certain that the contractor complies.

3. Can I fill a cranberry bog?

The answer is maybe and that you will have to go through a procedure.

The Duxbury Protective By-Law, 1.20, says that you cannot fill a bog without a permit from the Board of Appeals. You will have to apply for a hearing. The permission, if granted, may be conditional. In the case of one landowner, after a hearing by the Board of Appeals, 1.2, the matter was referred to the Department of Natural Resources. The Department ruled that he could fill one side of his bog to within ten feet of the drainage ditch.

In general, the Department of Natural Resources, 2.1, says that if the bog is drained by a stream which is part of the natural drainage system of the town, then the Hatch Act, 2.22, may apply. If water is pumped from a lower level, then the Hatch Act probably does not apply.

If you are planning to convert your cranberry bog into house lots, you must meet the rules of the State Sanitary Code, 2.3, and Duxbury Building Code. Making a bog into house lots can be a very expensive proposition.

4. Where can I obtain information about country, state and Federal aid, financial and planning, to create a pond on an inland stream?

For engineering aid, write Bud Reese, Plymouth Conservation District, 2.4, P.O. Box 186, Middleboro, Mass. 02342. Tel. 947-0096.

For possible financial help, write Robert Leland, Agricultural Conservation Stabilization Service, 3.2, Court House, Brockton, Mass. Tel. 583-4500.

For advice on planning for wildlife, write Warren Archey, Plymouth County Extension Service, 2.5, High Street, Hanson, Mass. Tel. 293-3541 and 447-5946.

5. What are the sanitary requirements that new construction must observe? To whom should I report violations, and who enforces these regulations?

Some of these requirements are described in the answer to question 7. The other requirements are found in Article XI of the State Sanitary Code, which you may obtain by writing the Mass. Department of Public Health, 600 Washington St., Boston, 2.3. Violations should be reported to the Board of Selectmen. Enforcement is usually on the local level. If the Board of Health fails in enforcement, you should inform the Lakeville office of the State board, 2.3.1.

6. What are the laws concerning air pollution?

Duxbury is within the Metropolitan Boston Air Pollution Control District. The regulations for this district state:

"Air pollution means the presence in the ambient air of one or more contaminants or combination thereof in such concentration and of such duration as to

- a. cause nuisances
- b. be injurious to human and animal life, to vegetation or property; or
- c. unreasonably interfere with the comfortable enjoyment of life and property or the conduct of business."

Concerning open air burning, the regulations say:

"No person shall cause or suffer or allow or permit the open air burning of any combustible material."

In Duxbury there are no exceptions to the prohibition of outdoor burning, except for outdoor cooking in hebachis. If you wish to cook outdoors, you must get a permit. This can be obtained from the Fire Department. Tel. 934-5691.

If this provision for outdoor cooking by permit only seems stringent at first, we suggest a moment's reflection. Outdoor cooking in hebachis over coals can temporarily produce dense smoke. This sort of smoke may be observed and produce unnecessary efforts on the part of the Fire Department.

7. What is a percolation test?

This is a test to determine if soil is suitable for sanitary drainage. In greatly simplified form, a hole is dug in the ground, water is poured in, and the rate of absorption is determined. The procedure is carefully regulated by the State Sanitary Code. The required method is clearly set forth in Article XI of the Code.

Percolation tests are best performed when the level of the ground water is highest. This is usually assumed to be March or April, although during dry springs this is not the case and another month may be selected. In Duxbury, percolation tests are performed by a registered sanitarian or registered sanitary engineer in the presence of the building inspector. Authority for granting the building permit lies with the selectmen. In Duxbury the selectmen also act as the Board of Health. When the percolation test is not conclusive one way or another, discretion must be exercised by the Board.

8. What is the statute concerning tax advantages of keeping woodland in its natural state for forestry purposes?

Your woodland must be ten acres in extent or greater, and it must be genuinely managed for forestry. The Department of Natural Resources will take a close look at your land to determine if you are genuinely in the forestry business. If you can qualify, you get a considerable tax break.

Write to the Department of Natural Resources, 2.1, and ask for "Chapter 61 of the General Laws as amended in 1969 by Chapter 873," and for "Rules and Regulations for Administration of Chapter 61, as Adopted by the State Forester." Ask also for "Highlights" of Chapter 61 as amended." This last is a one page mimeographed sheet.

9. How do I contact the Dept. of Natural Resources?

Telephone numbers are listed under 2.1.

10. If I see a boatman polluting the harbor, where should I make a report?

Inform the Harbormaster, Tel. 934-2866, or write Motor Boat Division, Dept. of Motor Vehicles, 2.6. Tel. 727-3900. For information on boating regulations call Alexander Colburn, Harrison St., Duxbury. Tel. 934-2424. Alex Colburn is the regional representative of the Governor's Commission of Boating Advisors, 2.7.

11. How do I give, sell, or lease land to the town for conservation purposes?

The Conservation Commission, 1.4, is the agent of the town in acquiring land for conservation purposes. The chairman is Dr. Lansing H. Bennett, Linden Lane, Tel. 934-2971.

The Conservation Commission wishes to acquire land in order to complete the greenbelt outlined in the Town Plan. For all the purchases which the Commission has made thus far, Duxbury has received at least 50% reimbursement from the State and Federal Government. Because of these reimbursements, the Commission is able to offer you full market value, generally more than you are likely to get from any other purchaser. It pays then to sell land to the town through the Commission, because you get a good price and you help the town. All large purchases are subject to the affirmative vote of Town Meeting.

The Federal Government doesn't give you many tax breaks, but it wants to promote the transfer of land to town and state governments for conservation purposes. When you sell or give land to the town, or limit it in some way for conservation, the tax advantages to you can be very real.

The Conservation Commission is glad to discuss these tax angles, or refer you to an attorney who will discuss them with you without charge.

There are also tax advantages in giving land or bequeathing it to the town. Again, the Commission is ready to discuss these.

A very important instrument in conserving land is the conservation restriction (sometimes referred to by the general term easement, sometimes called scenic easement.) We believe that people in Duxbury are just beginning to realize the possibilities that lie in this method of conserving some of the best features of the town.

TOWN OF DUXBURY

Boards, Commissions, Officials, Organizations, Regulations
Mostly in the order mentioned.

Departments:

1.1 BOARD OF SELECTMEN Tel. 934-2044
Paul H. Barber
Raymond P. Chandler

Theodore H. Reed

The selectmen constitute the Board of Health
Health Agent, Dr. George R. Starr

1.2

BOARD OF APPEALS

Chairman, Robert Seymour, 934-2503. Though not a conservation agency, the Board of Appeals is important in the conservation picture.

The following quotation is from the Massachusetts Conservation Commission Handbook. "The board of appeals acts more like a court than an administrative body. It guards the zoning and building ordinance or by-law, by hearing appeals . . . and gives flexibility by granting permits where a by-law authorizes one and by granting variances in hardship cases."

1.3

HARBORMASTER Tel. 934-2866

Manuel Oliver

1.4

CONSERVATION COMMISSION

Chairman, Dr. Lansing H. Bennett, 934-2971. The Conservation Commission is an official town committee and is the principal agent in carrying out the will of the town, as established at Town Meeting, regarding conservation. It meets every week or every second week in the Planning Board Room located in the old Abbott House. The meetings are open to the public and the commission welcomes visitors.

PLANNING BOARD

Chairman, Jeremiah H. Browne Jr., 934-2209. The Planning Board, as the name implies, is responsible for the creation of a town plan and is also responsible for its administration. It deals with subdivisions and zoning. The Planning Board also deals with problems of drainage, and it may, at times, delegate some of this responsibility. At the 1970 Town Meeting, on request of the Planning Board, a Drainage Committee was created. The chairman is Howard M. Blanchard, 934-2174. The Drainage Committee is charged with creating a drainage plan for the town. It has no other function. Though Mr. Blanchard would be happy to receive suggestions concerning this plan, individual drainage problems are still being handled by the Planning Board.

In addition to the chairman the members of the Planning Board are: Atherton Loring, 934-5440; Robert R. Cooper, 934-2758; Richard C. Crocker, 934-5061; Francis E. Park, 934-6005; Clarence W. Walker, 934-2500; George A. L. Brown, 934-2448.

1.20

REGULATIONS, BY-LAWS

The Protective By-Law, adopted in 1960, begins with the following preamble:

THE PROTECTIVE BY-LAW is for the purpose of protecting the health, safety, convenience and general welfare of all the inhabitants of the Town, to lessen the danger of fire, congestion and confusion and to improve and beautify the Town under and pursuant to the provisions of the General Laws. It is also for the purpose of protecting and preserving from despoilation the natural features and resources of the Town, such as salt marshes, wetlands, brooks and ponds. No obstruction of streams or tidal rivers and no excavation or filling of any marsh, wetland or bog shall be done without proper authorization by a special permit issued by the Board of Appeals."

Private Organization

DUXBURY RURAL and HISTORICAL SOCIETY

John B. Nash, Chairman. Tel. 934-2281. Founded in 1883, this is the oldest conservation organization in town. Their holdings include houses, such as the King Caesar House, specific historic sites, and tracts of woodland like those bordering on Round Pond and Island Creek Pond. They are interested in maintaining the character of Duxbury, and as far as possible its rural atmosphere. Anyone wishing to take part in conservation activity is likely to find a niche here or with Friends of Conservation.

As a charitable organization, land donated to or sold at "bargain" to the Rural and Historical Society, may be taken as a charitable deduction for tax purposes.

FRIENDS OF CONSERVATION

Chairman Don Connors 934-5533. Secretary Nancy Dawe 934-5895. Editors Newsletter, Anita Flanagan 837-3415, Janet Hawkins 934-5125.

This action minded group, founded in April 1970, has been so successful that it has been written up in Massachusetts Audubon Magazine for December and another article is scheduled to appear in National Parks and Recreation Magazine. Friends of Conservation offers everyone a chance to take part in conservation work in the town. They have the following committees: Zoning and Land Use Planning, Environmental Pollution and Health Regulation, Forests and Trails, Education and Program Planning, Newsletter and Publicity.

The Friends of Conservation works closely with the Conservation Commission and with town officials.

STATE OF MASSACHUSETTS

Divisions:

2.1

DEPARTMENT OF NATURAL RESOURCES

100 Cambridge St., Boston Mass.

Director Conservation Services: George Sprague, Tel. 727-3170

Commissioner: Arthur Brownell, Tel. 727-3158

Law Enforcement: Tel. 727-3190

2.2 DEPARTMENT OF PUBLIC WORKS
100 Nashua Street, Boston, Mass., Tel. 727-4897

2.3 DEPARTMENT OF PUBLIC HEALTH
600 Washington St., Boston, Mass.

2.3.1 S.E. Regional Health Office
Lakeville, Mass.
Paul Anderson, District Engineer
Raymond Dusseault, Tel. 947-1060

2.4 PLYMOUTH CONSERVATION DISTRICT
127 Taunton Street, Middleboro, Mass. 02346. Tel. 947-0096

MASS. COOPERATIVE EXTENSION SERVICE

This is a joint undertaking of the U.S. Dept. of Agriculture, the University of Mass., the State and County.

2.5 Plymouth County Extension Service
High Street, Hanson, Mass. Tel. 293-3541 and 447-5946

2.6 DEPARTMENT OF MOTOR VEHICLES
100 Nashua Street, Boston, Mass.

2.6 Division of Motor Boats. Tel. 727-3900

2.7 GOVERNOR'S COMMISSION OF BOATING ADVISORS

Alex Colburn's district runs from Scituate to the Cape Cod Canal. His home phone is 934-2424.

Law Enforcement:

Dept. of the Attorney General
Robert H. Quinn, Attorney General, State House, Boston, Mass.
Tel. 727-2200

Plymouth County
Robert L. Anderson, District Attorney
Tel. 746-6551

The attorneys general are ultimately responsible for seeing that town and state laws are enforced. Detectives are employed by the Brockton and Plymouth offices.

TOWN COUNSEL

Robert J. Geogan, Geogan and Geogan, Rockland, Mass.
According to the Duxbury By-Laws, citizens of Duxbury may address questions to the Town Counsel, only by permission of the Selectmen.

DREDGE AND FILL LAWS

Coastal Wetlands:

2.20 The Jones Act, 1963, protects salt marshes. Before removing any part of a salt marsh, or dredging or filling, application must be made to the Board of Selectmen who will hold a hearing. The selectmen make a recommendation to the State Department of Public Works or to the Department of Natural Resources, depending on which interest is involved. The decision rests with these departments of the state government. Shellfish and marine fisheries are specifically protected.

2.21 The Coastal Wetlands Protective Act of 1965 should be considered in connection with Jones Act. It goes a step further. It permits the Commissioner of Natural Resources to declare that a particular salt marsh is a protected natural resource and that no dredging, filling, altering or polluting will be permitted. It allows the Commissioner to put restrictions on a whole area. A fairly elaborate procedure is involved, and we are informed about this in Duxbury, since we have been going through this procedure with respect to our salt marshes. The Commissioner has not yet made his final decision.

Inland Wetlands:

2.22 The Hatch Act, approximately, does for inland wetlands what the Jones Act does for coastal wetlands. There follows the opening sentence from this 1965 law. "No person shall remove, fill or dredge any bank, flat, marsh, meadow or swamp bordering on any inland waters without filing written notice of this intention to so remove, fill or dredge, including such plans as may be necessary to describe such proposed activity, with the board of selectmen."

2.23 The Inland Wetland Act of 1968 again permits the Commissioner to go a step further in protecting wetlands. He may put restrictions on specific pieces of inland wetland. Again, there is a long procedure.

3.1 U.S. DEPARTMENT OF AGRICULTURE

3.2 Agricultural Stabilization and Conservation Service. Plymouth ASCS County Office, County Office Manager, 300 Warren St., Brockton, Mass. 02401. Tel. 583-4500. Ext. 620.

PRIVATE ORGANIZATIONS

For information on conservation law:

Conservation Law Foundation Inc., 44 School Street, Boston, Mass. A charitable organization dedicated to the protection of the environment through law.

For pesticide information:

Mass. Audubon Soc., Drumlin Farm, Lincoln, Mass. Tel. 259-9500